

HOUSE BILL 418

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2001 Regular Session
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By: **Chairman, Environmental Matters Committee (Departmental - Health
and Mental Hygiene)**

Introduced and read first time: February 1, 2001

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Drugs and Prescription Records - Impounding and Disposing**

3 FOR the purpose of authorizing the Department of Health and Mental Hygiene to
4 impound drugs or prescription records held by an authorized prescriber or a
5 holder of a permit issued by a Health Occupations Licensing Board; requiring
6 the Department of Health and Mental Hygiene to adopt regulations governing
7 the disposition of impounded drugs and prescription records held by a permit
8 holder or an authorized prescriber; authorizing the Department to issue a
9 certain order concerning the impounding and disposing of drugs and
10 prescription records; requiring the Department to issue a certain notice;
11 requiring the Department to give a permit holder or authorized prescriber an
12 opportunity to dispose of drugs and prescription records; requiring the
13 Department to provide the permit holder with a list of items being impounded;
14 establishing that a reasonable fee may be charged to cover the costs of
15 impoundment, storage, and disposition of drugs and records; requiring the
16 Department to publish notice regarding the date of transferal or destruction of
17 the drugs and records and designating how, where, and when the impounded
18 items may be retrieved by the permit holder or prescriber; requiring a Health
19 Occupations Licensing Board to immediately notify the Division of Drug Control
20 upon the surrender, suspension, or revocation of a permit holder's permit or a
21 prescriber's license; defining certain terms; and generally relating to the
22 impounding and disposing of drugs and prescription records of certain permit
23 holders and license holders.

24 BY adding to
25 Article - Health - General
26 Section 21-1113
27 Annotated Code of Maryland
28 (2000 Replacement Volume)

29 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
30 MARYLAND, That the Laws of Maryland read as follows:

Article - Health - General

2 21-1113.

3 (A) (1) IN THIS SECTION THE FOLLOWING TERMS HAVE THE MEANINGS
4 INDICATED.

5 (2) "AUTHORIZED PRESCRIBER" MEANS A LICENSED DENTIST, LICENSED
6 PHYSICIAN, LICENSED PODIATRIST, LICENSED VETERINARIAN, CERTIFIED NURSE
7 MIDWIFE TO THE EXTENT PERMITTED UNDER § 8-601 OF THE HEALTH OCCUPATIONS
8 ARTICLE, CERTIFIED NURSE PRACTITIONER TO THE EXTENT PERMITTED UNDER §
9 8-508 OF THE HEALTH OCCUPATIONS ARTICLE, OR OTHER INDIVIDUAL AUTHORIZED
10 BY LAW TO PRESCRIBE PRESCRIPTION OR NONPRESCRIPTION DRUGS OR DEVICES.

11 (3) "BOARD" MEANS A HEALTH OCCUPATION LICENSING BOARD
12 AUTHORIZED TO ISSUE A PERMIT, LICENSE, OR CERTIFICATE UNDER THE HEALTH
13 OCCUPATIONS ARTICLE.

14 (4) (I) "CONTROLLED DANGEROUS SUBSTANCE" MEANS A DRUG,
15 SUBSTANCE, OR IMMEDIATE PRECURSOR LISTED IN SCHEDULES I THROUGH V OF
16 ARTICLE 27 OF THE CODE.

17 (II) "CONTROLLED DANGEROUS SUBSTANCE" DOES NOT INCLUDE
18 TOBACCO OR A DISTILLED SPIRIT, WINE, OR MALT BEVERAGE REGULATED UNDER
19 ARTICLE 2B OF THE CODE.

20 (5) "DRUG" MEANS A PRESCRIPTION OR NONPRESCRIPTION DRUG.

21 (6) "NONPRESCRIPTION DRUG" MEANS A DRUG WHICH MAY BE SOLD
22 WITHOUT A PRESCRIPTION AND WHICH IS LABELED FOR CONSUMER USE IN
23 ACCORDANCE WITH THE REQUIREMENTS OF THE LAWS AND REGULATIONS OF THIS
24 STATE AND THE FEDERAL GOVERNMENT.

25 (7) "PERMIT HOLDER" MEANS A HOLDER OF, OR APPLICANT FOR:

26 (I) A PHARMACY PERMIT, MANUFACTURER'S PERMIT, OR
27 DISTRIBUTOR'S PERMIT ISSUED BY THE STATE BOARD OF PHARMACY UNDER TITLE
28 12 OF THE HEALTH OCCUPATIONS ARTICLE; OR

29 (II) A DISPENSING PERMIT ISSUED BY A BOARD UNDER THE
30 AUTHORITY OF § 12-102(C)(2) OF THE HEALTH OCCUPATIONS ARTICLE.

31 (8) "PRESCRIPTION DRUG" MEANS A DRUG THAT UNDER § 21-220 OF THE
32 HEALTH - GENERAL ARTICLE MAY BE DISPENSED ONLY ON THE PRESCRIPTION OF A
33 HEALTH PRACTITIONER WHO IS AUTHORIZED BY LAW TO PRESCRIBE THE DRUG.

34 (B) (1) THE DEPARTMENT MAY ISSUE AN ORDER OF IMPOUNDMENT AND
35 IMMEDIATELY IMPOUND DRUGS OR PRESCRIPTION RECORDS OF A PERMIT HOLDER
36 OR AN AUTHORIZED PRESCRIBER IF:

1 (I) A PERMIT HOLDER'S PERMIT OR AUTHORIZED PRESCRIBER'S
2 LICENSE HAS EXPIRED OR HAS BEEN REVOKED OR SUSPENDED;

3 (II) AN APPLICATION FOR A PERMIT OR LICENSE HAS BEEN
4 DENIED;

5 (III) A BOARD HAS:

6 1. DETERMINED THAT THE PERMIT HOLDER OR
7 AUTHORIZED PRESCRIBER FAILED TO COMPLY WITH A BOARD ORDER, LETTER OF
8 SURRENDER, OR LAW REGARDING THE DISPOSITION OF DRUGS OR PRESCRIPTION
9 RECORDS; AND

10 2. REQUESTED THAT THE DEPARTMENT IMPOUND THE
11 DRUGS OR PRESCRIPTION RECORDS;

12 (IV) THE DRUGS POSE AN IMMINENT THREAT TO THE PUBLIC
13 HEALTH, SAFETY, OR WELFARE; OR

14 (V) THE CONFIDENTIALITY OF THE PRESCRIPTION RECORDS IS IN
15 IMMINENT DANGER OF BEING COMPROMISED.

16 (2) THE DEPARTMENT MAY NOT IMPOUND THE DRUGS OR
17 PRESCRIPTION RECORDS OF A PERMIT HOLDER OR AUTHORIZED PRESCRIBER WHO
18 IS IN COMPLIANCE WITH A BOARD ORDER OR LAW SPECIFICALLY PROVIDING FOR
19 THE MANNER OF THE DISPOSITION OF DRUGS OR PRESCRIPTION RECORDS.

20 (C) (1) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (2) OF THIS
21 SUBSECTION, THE DEPARTMENT SHALL:

22 (I) ATTEMPT TO SERVE WRITTEN NOTICE OF AN IMPOUNDMENT
23 ON THE PERMIT HOLDER OR AUTHORIZED PRESCRIBER; AND

24 (II) PROVIDE THE PERMIT HOLDER OR THE AUTHORIZED
25 PRESCRIBER WITH AN OPPORTUNITY TO AVOID IMPOUNDMENT BY ALLOWING THE
26 PERMIT HOLDER OR AUTHORIZED PRESCRIBER TO DISPOSE OF THE DRUGS OR
27 PRESCRIPTION RECORDS IN A MANNER ACCEPTABLE TO THE DEPARTMENT.

28 (2) IF DRUGS POSE AN IMMINENT THREAT TO THE PUBLIC HEALTH,
29 SAFETY, OR WELFARE, OR IF THE CONFIDENTIALITY OF PRESCRIPTION RECORDS
30 ARE IN IMMINENT DANGER OF BEING COMPROMISED, THE DEPARTMENT MAY:

31 (I) ISSUE AN IMPOUNDMENT ORDER; AND

32 (II) IMMEDIATELY IMPOUND DRUGS OR PRESCRIPTION RECORDS
33 WITHOUT PRIOR NOTICE TO THE PERMIT HOLDER OR AUTHORIZED PRESCRIBER.

34 (D) AN ORDER OF IMPOUNDMENT CONSTITUTES A FINAL ORDER SUBJECT TO
35 JUDICIAL REVIEW UNDER THE STATE ADMINISTRATIVE PROCEDURE ACT.

1 (E) THE DEPARTMENT SHALL PROVIDE THE PERMIT HOLDER WITH A LIST OF
2 ALL DRUGS AND PRESCRIPTION RECORDS IMPOUNDED.

3 (F) THE DEPARTMENT MAY CHARGE REASONABLE FEES TO RECOVER THE
4 COSTS OF THE COLLECTION, STORAGE, AND DISPOSITION OF DRUGS OR
5 PRESCRIPTION RECORDS.

6 (G) THE DEPARTMENT SHALL ADOPT REGULATIONS GOVERNING THE
7 DISPOSITION OF IMPOUNDED DRUGS AND PRESCRIPTION RECORDS.

8 (H) PRIOR TO DESTROYING OR TRANSFERRING IMPOUNDED DRUGS OR
9 PRESCRIPTION RECORDS, THE DEPARTMENT SHALL PUBLISH A NOTICE FOR 2
10 CONSECUTIVE WEEKS IN A DAILY NEWSPAPER THAT IS CIRCULATED LOCALLY:

11 (1) STATING THE DATE THAT THE DRUGS OR PRESCRIPTION RECORDS
12 WILL BE DESTROYED OR TRANSFERRED; AND

13 (2) DESIGNATING A DATE, TIME, AND LOCATION WHERE THE DRUGS OR
14 PRESCRIPTION RECORDS MAY BE RETRIEVED BY THE PERMIT HOLDER OR
15 AUTHORIZED PRESCRIBER IF CERTAIN CONDITIONS ARE MET.

16 (I) A BOARD SHALL IMMEDIATELY NOTIFY THE DIVISION OF DRUG CONTROL
17 OF THE SURRENDER, SUSPENSION, OR REVOCATION OF A PERMIT HOLDER'S PERMIT
18 OR AN AUTHORIZED PRESCRIBER'S LICENSE.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 2001.